

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	4:09cr3062
)	
Plaintiff,)	
)	RESTRICTED
vs.)	MEMORANDUM AND ORDER
)	
GEOFFREY ESSAY,)	
)	
Defendant.)	

The government has filed a Motion and Request for Hearing Pursuant to Rule 35(b), filing 57. To be in a position to assess appropriately the information about the defendant's assistance to the government I need to become aware of the parties' positions a reasonable time before sentencing. Accordingly,

IT IS ORDERED that:

1. Counsel for the defendant, if previously appointed pursuant to the Criminal Justice Act, is reappointed to represent the defendant for purposes of the Rule 35 (b) motion. If retained, counsel for the defendant remains as counsel for the defendant until the Rule 35(b) motion is resolved or until given leave to withdraw;
2. The Federal Public Defender shall provide CJA counsel with a new voucher;
3. The Clerk of the Court shall mail a copy of this order to the Federal Public Defender.

IT IS FURTHER ORDERED that:

- A. not later than ten days before the sentencing hearing the government shall file and serve its response as a restricted document pursuant to the E-Government Act and include the following information:

1. the significance and usefulness of defendant's assistance;
 2. the truthfulness, completeness and reliability of any information provided by the defendant;
 3. the nature and extent of the defendant's assistance;
 4. any injury suffered, or any danger or risk of injury to the defendant or family of the defendant resulting from the assistance;
 5. the timeliness of the defendant's assistance;
 6. the duration of the defendant's assistance; and
 7. other information that may bear on the evaluation of the significance or usefulness of the defendant's assistance;
- B. no later than five days prior to the sentencing hearing the defendant's counsel shall file and serve as a restricted document his or her position regarding items 1 through 7 above.

In addition, each counsel is invited to recommend a level or percentage of reduction in the sentence, together with its rationale, which may include recitation of sentences imposed under similar circumstances by me or other judges in this district or circuit.

- C. the Request for Hearing portion of the Motion and Request for Hearing Pursuant to Rule 35(b) Motion, filing 57, is granted;
- D. the hearing will be held on March 7, 2011, at 12:15 p.m. in Courtroom 4, U.S. Courthouse, 100 Centennial Mall North, Lincoln, Nebraska;
- E. counsel for the defendant shall on or before March 3, 2011, make arrangements with the facility housing the defendant to have the

defendant present at a telephone where the defendant can participate at the Rule 35(b) hearing and provide to my judicial assistant the name of the defendant's case manager and the telephone number where the defendant can be reached at the time of the hearing.

Dated February 8, 2011.

BY THE COURT

s/ Warren K. Urbom
United States Senior District Judge Accordingly,